

REMARKS

Claims 1-3 and 5-9 are pending. By this Amendment, claims 1-3, 5, 8 and 9 are amended and withdrawn claim 4 is canceled. Applicant reserves the right to file a divisional application to pursue the subject matter of the withdrawn claim. The claims are amended to even more clearly distinguish over the applied references. Claim 5 has been rewritten in independent form and incorporates most of the subject matter of amended independent claim 1. No new matter is added by the above amendments.

I. Claim For Priority

The Examiner is requested to acknowledge receipt of the certified copies of the two Japanese applications from which Applicant claims priority. The certified copies were filed with the U.S. Patent and Trademark Office on January 23, 2004.

II. Information Disclosure Statement

The Examiner is requested to consider the information submitted in the July 6, 2006 Information Disclosure Statement. The Examiner is requested to return an initialed PTO-1449 with the next Patent Office communication.

III. All Pending Claims Are Patentable

Applicant notes with appreciation the identification of allowable subject matter in claims 5-7. As noted above, claim 5 has been rewritten in independent form. As claims 6 and 7 depend from claim 5, claims 5-7 are in condition for allowance.

Claims 1-3 stand rejected under 35 U.S.C. §102(b) over US 2001/0033477 to Inoue et al. In addition, claim 9 stands rejected under 35 U.S.C. §102(b) or 35 U.S.C. §103(a) over Inoue et al. These rejections are respectfully traversed.

Inoue et al. does not disclose or suggest the combination of features recited in independent claim 1. The Office Action refers to the embodiment illustrated in Figs. 23-25 of Inoue et al. None of the embodiments of Inoue et al. discloses or suggests the claim 1

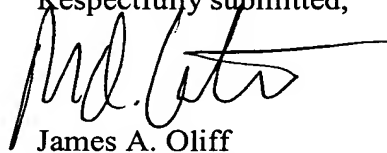
arrangement in which each of the inlet and outlet headers: (i) includes an end portion extended from each of both ends of each flat cooling tube in the direction perpendicular to the stacking direction, and (ii) the end portion (of the headers) being equipped with a diaphragm portion deformed in the stacking direction by the pressing force generated by the pressing mechanism. The Fig. 23-25 embodiment of Inoue et al. does not have inlet and outlet headers having end portions extended from each of both ends of each flat cooling tube in the direction perpendicular to the stacking direction, and the elastic sleeve portions 500, 600 are not diaphragm portions. Accordingly, independent claim 1 and its dependent claims are patentable over Inoue et al. Withdrawal of the rejections is requested.

Claim 8 stands rejected under 35 U.S.C. §103(a) over Inoue et al. in view of U.S. Patent No. 4,570,700 to Ohara et al. This rejection is respectfully traversed. Claim 8 is patentable for at least the reasons set forth above with respect to its independent claim 1. Withdrawal of the rejection is requested.

In view of the foregoing, Applicant respectfully submits that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe anything further would be desirable to place this application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Respectfully submitted,



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JAO:MAC/ccs

Attachment:
Petition for Extension of Time

Date: October 16, 2006

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